

This letter concerns Department Bulletin FY 2005-13. (This is a GIL.)

May 10, 2005

Dear Xxxxx:

This letter is in response to your letter dated February 16, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am writing in order to seek guidance related to the IDOR's recent release of FY 2005-13.

The information bulletin refers to the elimination of out-of-state buyer exemptions if the motor vehicle will be titled in a state that does not give Illinois residents reciprocal exemption. My question is whether this applies to motor vehicles shipped out of state where the customer takes possession in their home state.

I have a retailer that delivers vehicles out of state on consignment to a company located in Arizona. The customer purchases the vehicle at the Arizona location and the funds are then remitted back to the Illinois dealer less a commission from the consignment dealer. My understanding of the law leads me to believe that this is not a sale subject to Illinois ROT as possession is taken out of state.

Please confirm the department's position on the applicability of ROT when possession takes place out of state.

Thank your for your time and attention towards this matter.

DEPARTMENT'S RESPONSE:

The Informational Bulletin you refer to in your letter discusses some of the provisions of Public Act 93-1068, effective January 15, 2005. Public Act 93-1068 narrowed an existing exemption in the Retailers' Occupation Tax Act and the Use Tax Act allowed to an out-of-state purchaser who purchases a motor vehicle in Illinois, with delivery in Illinois, and then registers the motor vehicle outside Illinois in his or her home state. This Public Act provides that the exemption no longer applies if the state in which the motor vehicle will be titled does not allow a reciprocal exemption for a motor vehicle sold and delivered in that state to an Illinois resident but titled in Illinois.

The situations you describe in your letter are not covered by this exemption. However, the transactions you describe in your letter are not subject to the Retailers' Occupation Tax or Use Tax Act because delivery of the vehicle takes place outside of Illinois. In these situations, if you are filling out the ST-556 (Sales Tax Transaction Return), in Section 5, the exemptions Section, you should mark item G "Other". Then, on the right of this in the area labeled "(describe)", you should write "Delivered Out of State". This explanation is also provided in the instructions for form ST-556. You may also want to keep a copy of this letter with your books and records for future reference if a question should arise.

It is important to note that, if a transaction involving delivery of a motor vehicle outside Illinois was exempt before the effective date of Public Act 93-1068, it will continue to be exempt thereafter. Public Act 93-1068 applies only to motor vehicles delivered inside Illinois.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore
Associate Counsel

SJM:msk